

Exhibit 1

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4 UNITED STATES DISTRICT COURT
5 CENTRAL DISTRICT OF CALIFORNIA
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7 JENNIFER BENTLEY, as trustee of
8 the 2001 Bentley Family Trust, and
9 others similarly situated,

10 Plaintiff,

11 v.

12 UNITED OF OMAHA LIFE
13 INSURANCE CO.,
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15 Defendant,
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No. 15-cv-07870-DMG (AJWx)

**DECLARATION OF JOSEPH M.
VANEK IN SUPPORT OF CLASS
PLAINTIFFS' MOTION FOR AN
AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF
EXPENSES**

Date: July 29, 2022

Time: 10 a.m.

Judge: Hon. Dolly M. Gee

Courtroom: 8C

1 I, Joseph M. Vanek, hereby declare as follows:

2 1. I am an attorney licensed to practice before the courts of Illinois
3 and the Commonwealth of Massachusetts, and a partner in the law firm of
4 Sperling & Slater, P.C. I have personal knowledge of the facts stated in this
5 declaration and, if called as a witness, I could and would testify competently to
6 them. I make this declaration in support of my firm's request for attorneys'
7 fees and reimbursement of litigation expenses, as set forth in Plaintiffs' motion
8 for attorneys' fees, expenses, and service awards.

9 2. My firm is counsel of record in this case and represents named
10 Plaintiff, Jennifer Bentley, the class representative, and the class this Court has
11 certified. My firm's biographies for the principal attorneys working on this
12 case were attached to our previous motion for fees, costs and an incentive
13 award ("Prior Petition") that this Court granted in large part following entry of
14 summary judgment in favor of the Class (ECF No. 183-2 at 7-14 of 17).

15 3. At the time I first began working on this matter, I was the
16 managing partner of Vanek, Vickers & Masini, P.C. On January 1, 2019, my
17 practice group joined Sperling & Slater, P.C. who was also actively working on
18 this matter. This declaration presents the time and expenses for both my prior
19 firm, Vanek, Vickers & Masini, P.C., and current firm Sperling & Slater, P.C.
20 (referred to herein collectively as "Sperling & Slater").

21 4. Throughout the course of this litigation, counsel carefully
22 coordinated their activities to avoid engaging in duplicative work.

23 5. As co-lead counsel, we took primary responsibility for running
24 the litigation and generally handled most of the non-Plaintiff-specific work on
25 behalf of the Class.

26 6. Each co-counsel firm was responsible for work specific to Plaintiff
27 and other specific case issues. In addition, co-counsel assisted in review of
28 documents, preparation

1 of pleadings, and strategy. Again, with respect to this effort, as co-lead counsel
2 we were careful to assign discrete and non-overlapping tasks to each firm in
3 order to avoid duplicative work.

4 7. During the course of the litigation, my firm performed, among
5 others, the following tasks:

6 Before Court's Summary Judgment Ruling

- 7 a. Legal analysis of the claims for purpose of amended
8 complaints, motion to dismiss response, class certification
9 and summary judgment.
- 10 b. Preparation of the amended complaints.
- 11 c. Preparation of discovery, including document requests,
12 interrogatories, requests for admission, and depositions, and
13 all meet and confer conferences regarding same.
- 14 d. Preparation of discovery motions with respect to
15 Defendant's document production, interrogatory answers
16 and entry of an ESI order.
- 17 e. Preparation of Opposition to Motion to Dismiss and
18 premature Motion to Deny Class Certification filed by the
19 Defendant.
- 20 f. Preparation of the Motion for Class Certification and
21 related briefing.
- 22 g. Preparation of Class Notice.
- 23 h. Preparation of Plaintiffs' Motion for Summary Judgment
24 and Opposition to Defendants' Cross Motion for Summary
25 Judgment and related briefing.
- 26 i. Preparation for and presentation of oral argument on
27 Motions for Class Certification and Summary Judgment.
28

- 1 j. Preparation of various scheduling and other agreed orders
2 and management of the day to day litigation.

3 After Court's Summary Judgment Ruling

- 4 k. Preparation of the stipulated judgment between the parties.
5 l. Principal drafting of merits sections of appellate briefing
6 before the Ninth Circuit.
7 m. Preparation for oral argument on appeal and cross-appeal
8 before the Ninth Circuit.
9 n. Preparation for and participation in mediation, including
10 preparation of mediation statements.
11 o. Drafting of motion for indicative ruling, motion for limited
12 remand and other settlement-related pleadings and
13 materials.

14 8. My firm regularly prepared and maintained files
15 contemporaneously documenting all time spent, including tasks performed,
16 and expenses incurred. All of the time and expenses reported by my firm were
17 incurred for the benefit of this litigation. The role and contributions of the
18 principal attorneys from Sperling & Slater involved in the litigation are as
19 follows:

- 20 • Joseph M. Vanek. Mr. Vanek directed all activities of the
21 firm described in more detail below and was involved to
22 varying degrees with every aspect of the case. Mr. Vanek's
23 work was particularly focused on (i) preparation of the
24 amended complaints, (ii) litigation strategy, (iii) class
25 certification, (iv) summary judgement motions and
26 responses, and (v) appellate strategy.
27 • Mitchell H. Macknin. Mr. Macknin provided senior litigation
28 counsel on all key aspects of the matter. This included (i)
strategizing and editing the statement of the class claims, class
definition, discovery requests (to parties and non-parties),
briefing of the multiple motions to dismiss, case reports and

1 schedules, class certification briefing, and summary judgment
2 briefing; (ii) strategizing the appeal and cross-appeal,
3 including the response to the motion to stay enforcement,
4 bond issues, framing of the issues of pre- and post-judgment
5 interest, response to the motion to consolidate appeals, and
6 preparation for oral argument; (iii) strategizing the
7 negotiation of the settlement, including the mediation,
8 settlement agreement, motion to correct judgment, stipulated
9 judgment, and motion to approve the settlement; and (iv)
10 monitoring pertinent legislative developments.

- 11 • John P. Bjork. Mr. Bjork managed the day to day aspects of
12 the litigation. His efforts included, *inter alia*: (i) drafting the
13 amended complaints; (ii) drafting written discovery; (iii)
14 conducting multiple Defendant depositions; (iv) responding
15 to Defendant's motions to dismiss and for de-certification; (v)
16 preparing motions to compel; (vi) drafting class certification
17 papers and preparing for and leading oral argument on class
18 certification; (vii) drafting summary judgment papers and
19 preparing for and leading oral argument on summary
20 judgment; (viii) leading numerous meet and confer
21 teleconferences with defense counsel regarding a variety of
22 discovery and other issues; (ix) drafting significant aspects of
23 the appellate papers and preparing for appellate oral
24 argument; (x) drafting mediation submissions and
25 conducting settlement negotiations through mediator and
26 directly with defense counsel; and (xi) drafting motion for
27 indicative ruling and limited remand for purpose of
28 settlement approval.
- Nathan A. Shev. Mr. Shev provided counsel regarding the
appeal. His work included assisting with appellate strategy
and working on all aspects of the appellate briefs.
- Martin Amaro. Mr. Amaro provided general litigation
support, including, (i) fact investigation related to class
member identification, (ii) legal research, (iii) drafting
support for appellate papers, and (iv) communications with
settlement class members.

9. Detailed time and expense records supporting this summary information are available, if requested by the Court.

10. Sperling & Slater's combined lodestar is \$1,311,304.02 and its combined litigation expenses are \$30,173.17 for a total investment of \$1,341,477.19. This total combined lodestar was calculated by adding the amount of lodestar previously approved by the Court¹ and the additional lodestar incurred since the date of the Prior Petition. A breakdown of the lodestar by the primary lawyers or paralegals involved in this litigation through the date of our Prior Petition can be found at ECF No. 183-2 at 15-17. A breakdown of the lodestar incurred since the date of the Prior Petition - May 24, 2019 - is as follows:

Name	Hours	Blended Rate	Total
J. Vanek	91	~\$955	\$86,824.00
M. Macknin	144	~\$825	\$118,576.00
J. Bjork	545	~\$655	\$355,545.00
N. Shev	114	~\$535	\$60,990.00
M. Amaro	41.8	~\$570	\$23,735.50
D. Fan (Paralegal)	13.1	~\$330	\$4,328.50
TOTAL HOURS	948.9	TOTAL FEES	\$649,999.50

The lodestar above is based on historic rates. The Blended Rate column reflects the average rate for each individual calculated by dividing each individuals' historic lodestar by the number the number of hours billed since

¹ In its Prior Fee Award Order, the Court reduced Counsels' time by 30%. The numbers above reflect this reduction.


1 our Prior Petition. Sperling & Slater, P.C. has historically increased its
2 standard hourly rates at the start of each fiscal year. The hourly rates provided
3 for my firm's attorneys and professional support staff are the same as our usual
4 and customary hourly rates. My firm handles both contingency cases and
5 hourly work for paying clients and the rates represent i) standard rates charged
6 to clients in similar matters or, ii) for counsel that work overwhelmingly on
7 contingency matters, the rates charged for their services on a contingent basis
8 in similar complex class action litigation. Our rates were previously deemed
9 reasonable by this Court [ECF 197 at 8-9 of 15] and have been approved by
10 courts in other class action cases as well.²

11 11. The expenses incurred are the type of expenses typically billed by
12 attorneys to paying clients in the marketplace. My declaration in connection
13 with our Prior Petition included a detailed breakdown of our firm's expenses
14 through 5-24-19 (ECF 183-2 at 16-17 of 17). Our firm's limited additional
15 expenses since then are for travel (\$1,810.86), filing and delivery fees
16 (\$271.51), hosting charges to review documents produced in the case (\$432)
17 computerized legal research (\$1,591.76) and fees paid to a private investigator
18 to confirm class member contact information (\$1961.05).

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25 ² See, e.g., *In Re Intuniv Antitrust Litigation*, 16-cv-12653-ADB (D. Mass); *In Re*
26 *Restasis Antitrust Litigation*, 18-md-2819 (E.D. NY); *In re Glumetza Antitrust Litig.*,
27 3:19-cv-05822 (N.D. Cal.). The rates approved in these cases were the firm's
28 standard hourly rates in effect at the time the work was performed.

1 WHEREFORE, I declare under penalty of perjury under the laws of the
2 United States that the foregoing is true and correct to the best of my
3 knowledge.

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5 Executed this 17th day of May, 2022.

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8 Joseph M. Vanek